



Request for City Council Committee Action From the Planning Department

Date: November 26, 2003
To: Zoning and Planning
Referral to: Ways and Means

Subject:

Consultant contract for the Minneapolis Plan for Arts and Culture.

Recommendation:

Execute a contract for the Minneapolis Plan for Arts and Culture between the City of Minneapolis Cultural Affairs Division and the consultant team of AMS Planning and Research (Arthur Greenberg, St. Louis, MO) in association with Creative Planning, Inc. (Bill Bulick, Portland, OR), and the Center for the Study of Art and Community (Bill Cleveland, Minneapolis, MN).

Previous Directives

- Authorize and direct the issuance of a Request for Proposals to lead and create the Minneapolis Plan for Arts and Culture (City Council, September 26, 2003).
- Acceptance of Funds from The McKnight Foundation in the amount of \$40,000 (City Council, September 5, 2003).
- Direction to the Arts Commission to work with City staff, the City Council, the Mayor, and the community to develop a long-range cultural plan for the City (City Council, May 17, 2002).

Prepared by: Joshua Barney, Cultural Affairs Coordinator

Approved by: Blake Graham, Planning Director _____

Presenters in Committee: Joshua Barney, Cultural Affairs Coordinator
Mary Altman, Public Arts Administrator.

Financial Impact (Check those that apply)

☒ No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)

- ☐ Action requires an appropriation increase to the Capital Budget
- ☐ Action requires an appropriation increase to the Operating Budget
- ☐ Action provides increased revenue for appropriation increase
- ☐ Action requires use of contingency or reserves
- ☐ Other financial impact (Explain):

☐ Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact (use any categories that apply)

Neighborhood Notification: None
City Goals: 3, 4, 6, 7, and 8.
Comprehensive Plan: Chapter 6
Zoning Code: None
Other: None

Background/Supporting Information Attached

Over the past year-and-a-half the Minneapolis Arts Commission has been developing a plan for the development of the Minneapolis Plan for Arts and Culture. The purpose of the Minneapolis Plan for Arts and Culture is to develop a ten-year strategic plan that defines the role of the City of Minneapolis in supporting the arts and culture, and the role of the arts and culture in accomplishing the City's broader goals. The plan will result in a clear set of future priorities that are supported through policy and City resources. The Planning Division and the Mayor's Office have secured the funding and staff necessary to develop the Minneapolis Plan for Art and Culture. The Minneapolis City Council authorized the issuance of a Request for Proposals to lead and create the Minneapolis Plan for Arts and Culture.

The Selection Committee for the consultant comprised of Council Member Gary Schiff, Erik Takeshita (Mayor's Office), Kathleen Welch (Arts Commissioner), Randy Rowoldt (Arts Commissioner), Jack Byers (Principal Planner), Mary Altman (Public Arts Administrator), and Joshua Barney (Cultural Affairs Coordinator). The City received twelve proposals and reviewed each proposal according to the criteria outlined in the RFP. From this analysis, three consultant teams were interviewed and a finalist was chosen based on their ability and experience, quality of proposal, and cost effectiveness and capacity.

Please see the attached proposal submitted by the recommended team- AMS Planning and Research in association with Bill Bulick (Creative Planning, Inc.) and Bill Cleveland (Center for the Study of Art and Community)- for details on their professional experience, approach to this planning process, and ability to create an successful ten-year strategic plan for arts and culture. These elements exemplify the criteria specified in the attached Request for Proposals for Consultant Services to lead and create the Minneapolis Plan for Arts and Culture.

Cultural Affairs staff is working currently with the City Attorney's Office and the recommended consultant team to develop a contract for this work.

**Request for Proposals
for Consultant Services**
to lead and create:

The Minneapolis Plan for Arts and Culture

The City of Minneapolis Division of Cultural Affairs is pleased to invite consultants to apply to guide the development of a ten-year strategic plan that will define the role of the City of Minneapolis in supporting the arts and culture, and the role of the arts and culture in accomplishing the City's broader goals.

Applications Must be Received by Friday, October 31, 2003, 4:30 p.m.

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A. PROJECT OVERVIEW

1. Context

The Minneapolis economy relies strongly upon its artistic and cultural resources. The 2000 Census shows that arts and recreation jobs comprise eleven percent of the city's workforce. Minneapolis is home to over 110 arts organizations, which draw approximately 4,588,479 visitors and audience members. In 2001, Minneapolis was among 91 communities included in a national study, *Arts & Economic Prosperity*, by Americans for the Arts. Information gathered from 300 local arts organizations reveals that Minneapolis' nonprofit arts industry generates \$269 million in economic activity annually, including:

- 8,500 full-time or equivalent jobs;
- \$214 million in resident household income;
- \$8 million in local government revenues; and
- \$19 million in state government revenues.

Recent economic trends also clearly demonstrate that local economies depend greatly upon the creative and intellectual capital of their citizenry. To cultivate this capital, the City needs to nurture a cultural climate that will attract a creative and diverse workforce and to ensure that all residents have access to participate in arts and cultural activities.¹

At the same time, the Minneapolis arts community is undergoing tremendous change. Dozens of established institutions are in the process of building new facilities or revamping old ones. High rents have caused artists to abandon the downtown warehouse district. New ethnic groups have introduced the City to new cultural traditions.

2. History and Organization

Over the last ten years, the City of Minneapolis has invested over one hundred million arts-related dollars into the arts economy. City support has been diverse, including public arts projects and parks, a multi-cultural festival, free-permitting for film crews, financing for capital projects and cultural districts, owning and renovating the State, Orpheum and Pantages Theatres, and even the development of parking ramps for arts visitors.

Past arts goals: Until now, the City has had no strategic plan for the arts and culture. In the last four decades, the City conducted four arts planning processes and adopted more than 50 goals for the arts and culture. These goals can be summarized into six basic emphases:

- Stimulate excellence in the arts, culture and urban design.
- Increase participation in the arts and culture and provide access to all citizens, communities and organizations.
- Capitalize on the arts as an economic development tool by promoting Minneapolis as an international cultural center and film and video venue.

¹ Richard, Florida, Carnegie Mellon University, *The Rise of the Creative Class*.

- Encourage the development of arts districts, affordable arts spaces and a thriving artistic workforce.
- Advocate for support for the arts and culture and leverage investment from the legislature, businesses, foundations and neighborhoods.
- Encourage partnerships and coordination between artists, organizations and public agencies.

Although previous arts planning processes were acknowledged by the City Council and the Mayor, they lacked the specific strategies, policy development, staff directives and funding needed for implementation. They were also unsuccessful at providing a larger context for specific local area cultural plans, several of which have been developed in recent years, including:

- 2000—Avenue of the Arts (Minneapolis Public Works).
- 2001—Hennepin Theater District (Hennepin Avenue Area Businesses and the Minneapolis Planning Department).
- 2001—The Historic Mills District Masterplan (Minneapolis Community Development Agency).
- 2001—The Midtown Greenway Public Art (Midtown Community Works Partnership).
- 2002—The Northeast Arts Action Plan (Northeast Minneapolis Arts Association).

City support to these plans has been addressed one project at a time and coordinated through separate departments. As a result, different strategies have often been in conflict with one another. They have also failed to address the city as a whole or balance the needs of a broad base of constituents, including the downtown area and neighborhoods, small and large arts organizations; emerging and experienced artists; and recent and long-term immigrants.

New Leadership: Mayor R.T. Rybak and the Minneapolis City Council have taken important steps to address these issues. Since 2002 they have appointed thirteen new members to the Minneapolis Arts Commission, which has represented the City's arts constituency since its creation in 1976. The Office of Cultural Affairs was also reorganized and moved to the Planning Department, where arts staff could begin working to integrate arts programming into the City's overall goals and comprehensive plan.

One year ago, in a resolution authored by half of their members, the City Council reaffirmed the importance of the Commission by directing City departments and boards to bring all major public art projects before the Commission for approval.

Since then, the Council has approved a range of Commission recommendations, including public art policies for the City and the establishment of the Northeast Arts District. The Council also directed the Arts Commission and staff to develop a long-range plan for integrating the arts and culture into planning and economic development.

The selected consultant will be provided with relevant information that has been gathered and analyzed to date. Once selected, the consultant will be responsible for understanding the work to date so as not to duplicate what is already known and to build on the work that has already occurred. Past plans and studies should be viewed not only as a source of information but also as a source of community input. Below is a list of documents for review by the selected consultant: The Code of

Ordinances, *CultureTalks*, *The Minneapolis Plan*, 2001 Arts vision and Goals, *Northeast Minneapolis Arts Action Plan*, Americans for the Arts 2001 Economic Development Study, 2002 City of Minneapolis Public Art Funding Study, Public Art Policies, The State of the Arts and Culture, notes from the September 2, 2002 Minneapolis Arts Commission community meeting, the U.S. Census, and articles on recent trends.

3. Purpose, Projected Outcomes, and Goals

A) Purpose

The purpose of the Minneapolis Plan for Arts and Culture will be to develop a ten-year strategic plan that defines the role of the City of Minneapolis in supporting the arts and culture, and the role of the arts and culture in accomplishing the City's broader goals. The plan will result in a clear set of future priorities that are supported through both policy and a commitment of City resources.

The Minneapolis Plan for Arts and Culture is envisioned to be the first step toward a larger regional effort, and during this process City staff will communicate closely with the other government agencies engaged in working on similar planning efforts at the municipal, county, metropolitan and statewide levels.

B) Projected Outcomes

- 1) Gather input and support for the plan from the Arts Commission, the Planning Commission, the City Council and the Mayor.
- 2) Direct long-term priorities for City support to the arts and culture for:
 - Programming
 - Funding
 - Financing
 - Staff support
 - Advocacy
 - Regulation
- 3) Direct goals, policies, strategies and criteria that support these priorities and guide all City departments.
- 4) Outline specific policy recommendations that ensure these priorities support a diverse constituency, including small and large organizations; unincorporated groups; emerging and experienced artists; all city neighborhoods; and a range of persons of various backgrounds and personal orientations.
- 5) Clarify roles for elected officials, City departments, and City commissions and boards in arts and culture-related decisions and programs.
- 6) Recommend specific plans for funding, marketing, evaluation and implementation of the Plan.
- 7) Create an inventory of current projects that have received arts-related financial support over the past five years.
- 8) Survey results on citizen support for the arts and culture.

C) Goals of the Planning Process

- 1) Effectively engage the participation and ownership of community members, arts organizations, and artists in the Plan.
- 2) Integrate consideration of the arts and culture into overall City planning.
- 3) Identify and effectively focus sources of City funding for the arts and culture.

- 4) Examine other models for increasing the creative and intellectual capital of communities.
- 5) Communicate to the public the extent of City resources that have been expended on arts and culture activities in recent years.
- 6) Educate the public about the types of resources available within the City and provide them with information for accessing these resources.
- 7) Form partnerships with outside agencies and funders that are necessary to support the plan.

B. SCOPE OF SERVICES

1. Eligibility

The Minneapolis Plan for Arts and Culture project is open to applicants nationally and internationally. The City of Minneapolis encourages applications from persons of various backgrounds and personal orientations. Applicants who are ineligible to apply include current City staff and Minneapolis Arts Commissioners.

2. Compensation

The budget for contracting professional planning services shall not exceed \$75,000. Consultant teams should prepare and submit an estimated budget based on an assessment of the scope of services in this document. A contract between the consultant and the City of Minneapolis will define stages of completion and a payment schedule.

3. Project Tasks

To achieve the Plan goals, the consultant will work with City staff, a Coordinating Committee and an Advisory Committee. The Advisory Committee will be comprised of the following representatives:

- Arts organizations from a range of disciplines and sizes
- Artists from different disciplines
- Representatives of the community at large and neighborhood associations.
- Businesses supporting the arts and culture and members of the Chamber of Commerce
- Foundations supporting the arts and culture
- The Minneapolis Arts Commission and other relevant City Boards and Commissions
- The Minneapolis City Council and the Mayor's Office
- City departments
- Minneapolis Park and Recreation Board, Library Board, Minneapolis Public Schools, Municipal Building Commission, Minneapolis Public Housing Authority, Metropolitan Council, and Hennepin County
- Minnesota State Arts Board and Metropolitan Regional Arts Council

The process to achieve the goals has already begun. It is anticipated that the selected consultant will take the lead in items A-C below, while the Advisory Committee, the Arts Commission and City Staff will largely be responsible for item D:

A) Assessment of Community Needs and Resources: Winter 2003

- 1) Review and summarize findings from relevant studies and other available data, including: The Code of Ordinances, *CultureTalks*, *The Minneapolis Plan*, 2001 Arts vision and Goals, *Northeast Minneapolis Arts Action Plan*, Americans for the Arts 2001 Economic Development Study, 2002 City of Minneapolis Public Art Funding Study, the Minnesota State Arts Board, the Minnesota Council on Foundations, the Metropolitan Regional Arts Council, the U.S. Census, and articles on recent trends.
- 2) Interview key stakeholders.
- 3) Conduct additional research and survey a sample of citizens about support for the arts.
- 4) Examine other models for increasing the creative capital of the communities.
- 5) Analyze information, produce findings, and identify options.

B) Goal Setting and Plan Development: Winter 2003

- 1) Identify, with the Advisory Committee, four to five key areas of focus (e.g. funding and sustainability, cultural facilities, organizational development and technical assistance, support for artists, community/neighborhood arts development, marketing audience development, arts education, leadership and governance, cultural and ethnic diversity, community design and public art, cultural tourism) and work with subcommittees to conduct additional research on these topics.
- 2) Develop and prioritize with the Advisory Committee the goals, objectives and strategies. (As part of this process, examine goals in the Comprehensive Plan and other City documents, and determine whether they are clear and strong enough to support the arts and cultural needs in the Minneapolis.).
- 3) Identify responsibilities for implementing the Plan and clarify the roles of various City departments, City commissions and boards, and outside agencies including marketing, ongoing funding, evaluation strategies, and developing an implementation body that periodically meets and monitors progress on strategies and goals.

C) Community Input and Administration: Spring-Summer 2004

- 1) Gather input on the draft at community meetings.
- 2) Gather input on the draft from key stakeholders.
- 3) Revise draft with input.

D) Approval and Implementation: Summer-Fall 2004

- 1) Bring the final plan before the advisory committee, the Arts Commission, the Planning Commission and the City Council for adoption.
- 2) Include recommendations for funding the Plan implementation in the Mayor's 2005 Budget.
- 3) Amend *the Minneapolis Plan* to include the Minneapolis Plan for Arts and Culture and to clearly articulate the City's goals for arts and culture.
- 4) Bring appropriate changes in policy before the City Council, and, if appropriate, amendments to the City Charter and Code of Ordinances.
- 5) Tie staff workplans and evaluation to the goals and strategies in the plan.

The consultant will provide documentation as appropriate during meetings with committees and the general public. The Consultant will provide 20 bound hardcopies of the Minneapolis Plan for Arts and Culture along with one unbound hardcopy, and an electronic version on CD-ROM. The Plan should be submitted in booklet form including text, graphics, tables, charts, renderings, and pictorial images as appropriate. The document should be in black/white (with select pages in full color), be 8-1/2 x 11 inches in size and must include sections that relate to those tasks addressed in the Scope of Services.

C. APPLICATION PROCESS

1. Project Schedule

| | |
|-----------------------------|---|
| September 29, 2003 | RFP distributed |
| October 10, 2003, 9:30 a.m. | Information Session |
| October 31, 2003, 4:30 p.m. | Consultant submissions due |
| Week of November 3, 2003 | Selection Committee selects finalists |
| Week of November 3, 2003 | Finalists notified |
| Week of November 17, 2003 | Selection Panel interviews finalists and makes final recommendation to be selected. |
| Week of November 17, 2003 | Selected consultant notified |
| Early December 2003 | Consultant contracted, begin work |
| November 2004 | Plan implementation begins |

2. Pre-Proposal Information Forum

There will be an information session for interested applicants on October 10, 2003 from 9:30-11:30am in City Hall room 315, 350 South 5th Street, Minneapolis. All applicants are encouraged to attend this informational forum to learn more about the application process. Project staff and committee members will be on hand to answer questions. Questions posed at this forum and the answers will be emailed to the group of interested applicants who contact joshua.barney@ci.minneapolis.mn.us

3. Proposal Due Date and Location

Received by October 31, 2003, 4:30 p.m. (postmarks not accepted)
City of Minneapolis Procurement Division
552 Towle Building
330 2nd Avenue South
Minneapolis, MN 55401-2211
Label Applications: "Minneapolis Plan for Arts and Culture"

Applicants should submit 10 copies of a packet containing all of the written materials defined in section C.5. below. Proposal packets should be on black and white paper appropriate for photocopying, stapled together. No special binding methods or proposals in folders or portfolios are allowed. Photos, brochures, videos, or web sites should not be submitted and will not be reviewed by the selection panel. No submission materials will be returned.

Applications must be mailed or delivered. Applications that are emailed, faxed, incomplete, or late will not be accepted. Consultants will be notified of panel recommendations by mail.

This Request for Proposals is available in alternative formats upon request. Applicants needing special assistance may contact Joshua Barney at 612-673-2728 (fax) or joshua.barney@ci.minneapolis.mn.us to make arrangements.

4. Contact for More Information

All questions regarding this proposal must be submitted in writing via fax or email to:
Joshua Barney
City of Minneapolis
350 S. 5th Street, Room 210
Minneapolis, MN 55415
or 612-673-2728 (fax)
or joshua.barney@ci.minneapolis.mn.us

All interested applicants should contact joshua.barney@ci.minneapolis.mn.us to be placed on an email list to receive the responses to all incoming questions, including questions posed by email, fax, or at the pre-proposal information forum.

5. *Proposal Format and Submission Materials*

The content of all proposals for this work shall address the following issues and adhere to the following format:

- A. Scope of Services:** Describe how service will be provided. Include a detailed listing and description of tasks and deliverables. Provide a summary of the proposed approach to the project, as well as a detailed description of the methodology to be used. The project approach should highlight recommendations of how best to gather input and encourage community feedback, drawing upon the Minneapolis Arts Commission, Advisory Committee, and general public in an efficient and appropriate manner.
- B. Experience and Capacity:** Describe background and experience of all firms and subcontractors demonstrating ability to provide required services. Identify any subcontractors or consultants that will be involved. Teaming of consultants with complementary expertise is encouraged. Teaming of national level consultants with local partners is encouraged.
- C. References:** List three references from contracts similar in size and scope. Respondents must provide references that may be contacted.
- D. Personnel Listing:** Identify specific personnel or consultants that will be assigned to the project and level of involvement each will devote. This list should be organized to show personnel/consultants and time commitments in relation to the specific phases outlined in the Scope of Services. Include description of each person's/consultant's history, background, as well as their capacity to provide the requested services. Include examples of each consultant's work on similar projects.

- E. Budget for Services:** Indicate proposed budget including rates, direct costs, and list of charges per consultant. Proposed budget should categorize expenses by phases defined within the Scope of Services, as well as types of services. It should include all expenditures necessary to complete the project, including any anticipated reimbursable expenses.
- F. Timeline:** The Consultant should propose the time frame for completion of the Minneapolis Plan for Arts and Culture highlighting specific dates for committee and/or public meetings and completion of each activity defined within the Scope of Services.
- G. Insurance:** Provide a response indicating insurance coverage. Attached is "Appendix Three," which outlines the insurance coverage required by the City.

D. SELECTION PROCESS

1. Selection Committee

The Selection Committee will be comprised of seven representatives from the Coordinating Committee including a City Planner, Arts Commissioners, Cultural Affairs staff, a representative from the Mayor's Office, and a representative from a Council Member's Office.

2. Selection Criteria

A) Ability and Experience

- 1) Demonstrated experience in one or more of the fields of expertise required to complete this work, including experience in consulting and cultural planning, as well as knowledge of governmental agencies and the arts community
- 2) Qualifications and experience of personnel, other consultants and subcontractors.

B) Quality of Proposal

- 1) How well the scope of services meets the goals of this planning process.
- 2) Thoroughness, and clarity of proposal.
- 3) Demonstrated understanding of the Scope of Services.
- 4) Organization, management, and proposed methodology
- 5) Ability to package findings, ideas, and concepts through a combination of written and graphic means of expression.

C) Cost Effectiveness and Capacity

- 1) Demonstration of capacity to successfully complete this project, including ability to work within proposed timelines and budget and established City processes.
- 2) Cost to provide the requested services and deliverables.

E. GENERAL REQUIREMENTS

The General Requirements are terms and conditions that the City expects all of its contractors to meet. By proposing the Proposer agrees to be bound by these requirements unless otherwise noted in the Proposal. The Proposer may suggest alternative language to any section. Some negotiation is possible to accommodate Proposer's suggestions.

1. City's Rights

The City reserves the right to reject any or all proposals or parts of proposals, to accept part or all of proposals on the basis of considerations other than lowest cost, and to create a project of lesser or greater expense and reimbursement than

described in this Request for Proposal, or the respondent's reply based on the component prices submitted.

2. Interest of Members of City

The contractor agrees that no member of the governing body, officer, employee or agent of the City shall have any interest, financial or otherwise, direct or indirect, in the Contract.

3. Equal Opportunity Statement

Contractor agrees to comply with the provisions of all applicable federal, state and City of Minneapolis statutes, ordinances and regulations pertaining to civil rights and nondiscrimination including, without limitation, Minnesota Statutes, Section 181.59 and Chapter 363, and Minneapolis Code of Ordinances, Chapter 139, incorporated herein by reference.

4. Non-Discrimination

The contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, sex, national origin, affection preference, disability, age, marital status or status with regard to public assistance or as a disabled veteran or veteran of the Vietnam era. Such prohibition against discrimination shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

The contractor shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City, setting forth this nondiscrimination clause. In addition, the Vendor shall, in all solicitations or advertisements for employees placed by or on behalf of the Vendor, state that all qualified applicants will receive consideration for employment without regard to race, creed, religion, ancestry, sex, national origin, affectional preference, disability, age, marital status or status with regard to public assistance or status as disabled veteran or veteran of the Vietnam era, and comply in all other aspects with the requirements the Minneapolis Code of Ordinances, Chapter 139.

5. Insurance

Insurance secured by the Contractor shall be issued by insurance companies acceptable to the City and admitted in Minnesota. The insurance specified may be in a policy or policies of insurance, primary or excess. Such insurance shall be in force on the date of execution of the contract and shall remain continuously in force for the duration of the contract. The Contractor and its sub-contractors shall secure and maintain the following insurance:

- a) Workers Compensation insurance that meets the statutory obligations with Coverage B- Employers Liability limits of at least \$100,000 each accident, \$500,000 disease - policy limit and \$100,000 disease each employee.
- b) Commercial General Liability insurance with limits of at least \$500,000 general aggregate, \$500,000 products - completed operations \$500,000 personal and advertising injury, \$500,000 each occurrence \$50,000 fire damage and \$5,000 medical expense any one person. The policy shall be on an "occurrence" basis, shall include contractual liability coverage and the City shall be named an additional insured.

- c) Commercial Automobile Liability insurance covering all owned, non-owned and hired automobiles with limits of at least \$500,000 per accident.

Acceptance of the insurance by the City shall not relieve, limit or decrease the liability of the Contractor. Any policy deductibles or retention shall be the responsibility of the contractor. The Contractor shall control any special or unusual hazards and be responsible for any damages that result from those hazards. The City does not represent that the insurance requirements are sufficient to protect the Contractor's interest or provide adequate coverage. Evidence of coverage is to be provided on a City-approved Insurance Certificate. A thirty- (30) day written notice is required if the policy is canceled, not renewed or materially changed. The Contractor shall require any of its subcontractors, if sub-contracting is allowable under this contract, to comply with these provisions.

6. Transfer of Interest

The Contractor shall not assign any interest in the Contract, and shall not transfer any interest in the same either by assignment or novation without the prior written approval of the City, provided, however, that claims for money due or to income due to the contractor may be assigned to a bank, trust company or other financial institution, or to a Trustee in Bankruptcy without such approval. Notice to any such assignment or transfer shall be furnished to the City. The Contractor shall not subcontract any services under this contract without prior approval of the City Department Contract Manager designated herein.

7. Compliance Requirements

All contractors hired by the City of Minneapolis are required to abide by the regulations of the Americans with Disabilities Act of 1990 (ADA) which prohibits discrimination against individuals with disabilities. The contractor will not discriminate against any employee or applicant for employment because of their disability and will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, discharge, compensation and fringe benefits, classification, referral and training. The ADA also requires contractors associated with the City of Minneapolis to provide qualified applicants and employees with disabilities with reasonable accommodation that does not impose undue hardship. Contractors also agree to post in a conspicuous place, accessible to employees and applicants, notices of their policy on non-discrimination. The above requirements also apply to the Minnesota Human Rights Act, Minn. Stat. C. 363.

In the event of the contractor's noncompliance with the non-discrimination clauses of this contract, this contract may be canceled, terminated, or suspended, in whole or part, and the contractor may be declared ineligible by the Minneapolis City Council from any further participation in City contracts in addition to other remedies as provided by law.

8. General Compliance

The Contractor agrees to comply with all applicable Federal, State and local laws and regulations governing funds provided under this contract.

9. Performance Monitoring

The City will monitor the performance of the Contractor against goals and

performance standards required herein. Substandard performance as determined by the City will constitute non-compliance with this agreement. If action to correct such substandard performance is not taken by the Contractor within a reasonable period of time after being notified by the City, contract termination procedures will be initiated. All work submitted by Contractor shall be subject to the approval and acceptance by the City Department Contract Manager designated herein. The City Department Contract Manager designated herein shall review each portion of the work when certified as complete and submitted by the Contractor and shall inform the Contractor of any apparent deficiencies, defects, or incomplete work, at any stage of the project.

10. Independent Contractor

Nothing contained in this agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Contractor shall at all times remain an independent contractor with respect to the services to be performed under this Contract. Any and all employees of Contractor or other persons engaged in the performance of any work or services required by Contractor under this Contract shall be considered employees or sub-contractors of the Contractor only and not of the City; and any and all claims that might arise, including Worker's Compensation claims under the Worker's Compensation Act of the State of Minnesota or any other state, on behalf of said employees or other persons while so engaged in any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of contractor.

11. Hold Harmless

The Contractor agrees to defend, indemnify and hold harmless the City, its officers and employees, from any liabilities, claims, damages, costs, judgments, and expenses, including attorney's fees, resulting directly or indirectly from an act or omission of the contractor, its employees, its agents, or employees of subcontractors, in the performance of the services provided by this contract or by reason of the failure of the contractor to fully perform, in any respect, any of its obligations under this contract. If a Contractor is a self-insured agency of the State of Minnesota, the terms and conditions of Minnesota Statute 3.732 et seq. shall apply with respect to liability bonding, insurance and liability limits. The provisions of Minnesota Statutes Chapter 466 shall apply to other political subdivisions of the State of Minnesota.

12. Accounting Standards

The Contractor agrees to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally accepted accounting practices to properly account for expenses incurred under this contract.

13. Retention of Records

The Contractor shall retain all records pertinent to expenditures incurred under this contract for a period of three years after the resolution of all audit findings. Records for non-expendable property acquired with funds under this contract shall be retained for three years after final disposition of such property.

14. Data Practices

The Contractor agrees to comply with the Minnesota Government Data Practices Act and all other applicable state and federal laws relating to data privacy or

confidentiality. The Contractor must immediately report to the City any requests from third parties for information relating to this Agreement. The City agrees to promptly respond to inquiries from the Contractor concerning data requests. The Contractor agrees to hold the City, its officers, and employees harmless from any claims resulting from the Contractor's unlawful disclosure or use of data protected under state and federal laws.

All Proposals shall be treated as non-public information until the Proposals are opened for review by the City. At that time the Proposals and their contents become public data under the provisions of the Minnesota Government Data Practices Act, Minn. Stat. C. 13 and as such are open to public review.

15 Inspection of Records

All Contractor records with respect to any matters covered by this agreement shall be made available to the City or its designees at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

16 Living Wage Policy

All contractor employees will be paid at least a living wage. The definition of a Living Wage is at a minimum 110 percent of the current year federal poverty level for a family of four as provided by the federal Department of Health & Human Services for a contractor that does not supply employer-paid health insurance and 100 percent for a contractor that does supply employer-paid health insurance.

17 Applicable Law

The laws of the State of Minnesota shall govern all interpretations of this contract, and the appropriate venue and jurisdiction for any litigation which may arise hereunder will be in those courts located within the County of Hennepin, State of Minnesota, regardless of the place of business, residence or incorporation of the Contractor.

18 Conflict and Priority

In the event that a conflict is found between provisions in this Contract, the Contractor's Proposal or the City's Request for Proposals, the provisions in the following rank order shall take precedence: 1) Contract; 2) Proposal; and last 3) Request for Proposals.

19 Ownership of Materials

All finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials resulting from this Contract shall become the property of the City upon final approval of the final report or upon request by the City at any time before then. The City may use, extend, or enlarge any document produced under this Contract without the consent, permission of, or further compensation to the Contractor.

20 Billboard Advertising

Through Ordinance 109.470, City and City-derived funds are prohibited from use to pay for billboard advertising as a part of a City project or undertaking.

22 Conflict Of Interest/Code Of Ethics

Contractor agrees to be bound by the City's Code Of Ethics, Minneapolis Code Of Ordinances, Chapter 15. Contractor certifies that to the best of its knowledge all City employees and officers participating in this Agreement have also complied with that Ordinance. It is agreed by the Parties that any violation of the Code Of Ethics constitutes grounds for the City to void this Agreement. All questions relative to this section shall be referred to the City and shall be promptly answered.

23 Termination

The City may cancel this Contract for any reason without cause upon thirty (30) days written notice, except that if either party fails to fulfil its obligations under the Contract in a proper and timely manner, or otherwise violates the terms of this Contract, the other party shall have the right to terminate this Contract, if the default has not been cured after a ten (10) days written notice has been provided. If termination shall be without cause, the City shall pay contractor all compensation earned to the date of termination. If the termination shall be for breach of this Contract by Contractor, the City shall pay Contractor all compensation earned prior to the date of termination minus any damages and costs incurred by the City as a result of the breach. If the contract is canceled or terminated, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Contractor under this agreement shall, at the option of the City, become the property of the City, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City as a result of any breach of this Contract by the Contractor. The City may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the City is determined. The rights or remedies provided for herein shall not limit the City, in case of any default by the Contractor, from asserting any other right or remedy allowed by law, equity, or by statute.

24 Small & Underutilized Business Program (SUBP) Requirements

The proposer must comply with the Small & Underutilized Business Enterprise Program (SUBP), as outlined in Minneapolis City Ordinance Chapter 423 (the "(SUBP) Ordinance"). The SUBP Ordinance applies to any construction/development project, or part thereof, in excess of one hundred thousand dollars (\$100,000), and any contract for the provision of goods and services in excess of fifty thousand dollars (\$50,000). In accordance with the terms and conditions of this agreement, the rules and regulations as promulgated by the manager of the SUBP, and the SUBP Ordinance, the proposers must complete and submit as a part of their proposal, Appendix One, "Every Available and Reasonable Effort Criteria Questionnaire," and Appendix Two, "Contractor Participation Form."

Each proposer, including proposers that are Women Business Enterprise (WBE) and/or Minority Business Enterprise (MBE) must complete and submit with its proposal the "Every Available and Reasonable Effort Criteria Questionnaire," Appendix One, and "Contractor Participation Form, Appendix Two." Proposers that are W/MBEs are encouraged to further contract with certified W/MBEs for procurement of goods, services and materials.

Failure to complete and/or submit the “Every Available and Reasonable Effort Criteria Questionnaire,” Appendix One, and the “Contractor Participation Form,” Appendix Two, with the proposal and provide written documentation of the proposer’s efforts or activities to meet the goals as described below, may be grounds for rejecting a proposal as non-responsive.

If established participation levels are not met, the City of Minneapolis will make the final determination as to whether the proposer made sufficient good faith efforts to achieve the established goals.

The activities listed below must be included and documented in the proposal submitted to establish ‘good faith effort’ as required by the statute [Ch.423]. Whether or not the proposer

- Contacted the Minneapolis Department of Civil Rights for information about utilizing the services of certified Women Business Enterprises (WBE)/Minority Business Enterprises (MBE) and W/MBE criteria;
- Advertised (or posted notices) in general circulation, community newspapers, and with service organizations such as Urban League, Summit Academy OIC, MDCR, MPHA, YouthBuild, MEDA, NAMC, and Women Venture concerning the subcontracting and employment opportunities;
- Utilized the services of women and minority contractor organizations, community organizations, recruitment resources, and business assistance agencies to provide assistance identifying and recruiting women-owned and minority-owned firms. Such service organizations include Urban League, Summit Academy OIC, Minneapolis Department of Civil Rights, Minneapolis Public Housing Authority, YouthBuild, MEDA, NAMC, and Women Venture;
- Provided written notice to a reasonable number of certified W/MBE firms that have the capability to perform the work of the contract that their interest in the contract is being solicited;
- Followed up initial solicitations of interest by contracting certified W/MBE firms to determine with certainty whether the W/MBE firms were interested;
- Selected portions of the work to be performed by certified W/MBE firms in order to increase the likelihood that W/MBE goals may be met;
- Provided interested certified W/MBE firms with adequate information about the plans, specifications and requirements of the contract in a timely manner to assist them in responding to a solicitation;
- Negotiated in good faith with interested certified W/MBE firms, not rejecting the firms as unqualified without sound reason(s) based on a thorough investigation of their capabilities;
- Other actions, not listed above, intended to secure participation of women and minority employees, and participation of certified W/MBE firms.

The proposer shall, utilizing Appendix One, make and document every reasonable effort to include qualified and available certified small businesses, including companies owned by women and minority persons, as part of their proposal. A list of certified small businesses can be obtained by contacting the Small and Underutilized Business Program at 612/673-2272 or the CERT web site at www.impactcorp.com/cert.

Proposers who fail to submit “Appendix One” and “Appendix Two” may be deemed non-responsive and their proposal may be rejected.

The SUBP goals for this project are 0% WBE and 0% MBE.

Any inquiries relating to the participation goals for small and underutilized businesses should be directed to the City of Minneapolis Civil Rights Department, SUBP Unit, 239 City Hall, 350 South 5th Street, Minneapolis, Minnesota 55415, Attention: Manager, SUBP Unit, (612-673-2272).

Appendix One

Every Available and Reasonable Effort Criteria Questionnaire

This document, when completed, must be included with the proposal. Proposers who fail to submit "Appendix One" may be deemed non-responsive and their proposal may be rejected.

1. List the name of the person you spoke with at Minneapolis Department of Civil Rights, and the date, regarding information on how to contact certified W/MBE's and how to qualify as a certified W/MBE?

2. List the places where you advertise or post notices concerning subcontracting and employment opportunities for this project. Please attach a copy of the advertisement and/or notice.

3. Name the women and minority contractor organizations, community organizations, recruitment resources, and business assistance agencies that provided you assistance in identifying and recruiting women and minority employees and certified W/MBE firms for this project?

4. List the certified W/MBE firms, with the capability to perform the work, that you provided written notice in order to solicit their participation on the project. Please attach a copy of the written notice. If no contact was made with certified W/MBE firms, please list the reasons below.

5. Provide the follow-up steps you took to the initial solicitations of interest shown by certified W/MBE firms regarding this project?

6. Describe how you selected portions of the work to be performed by certified W/MBE firms in order to increase the likelihood that the W/MBE goal will be met on the project.

7. Describe how you provided interested certified W/MBE firms with timely and adequate information about the plans, specifications and requirements of the contract?

8. Did you assist certified W/MBE firms in responding to a solicitation? ☐ YES ☐ NO. If so, how did you assist? _____

9. Did you negotiate in good faith with interested certified W/MBE firms? ☐ YES ☐ NO. If not, why not?

10. Did you reject any certified W/MBE firms as unqualified without sound reasons(s) following a thorough investigation of their capabilities? ☐ YES ☐ NO. If so, please list those firms and state why you rejected them? _____

11. Briefly describe other actions not listed above that you took to secure participation of certified W/MBE firms.

APPENDIX TWO
CONTRACTOR PARTICIPATION FORM

CITY OF MINNEAPOLIS
WOMEN, MINORITY AND SMALL BUSINESS UTILIZATION
PLAN

PROPOSER'S NAME:

ADDRESS:

TELEPHONE NUMBER:

CONTACT NAME:

PROJECT NAME:

RFP NUMBER:

Each proposal shall be accompanied with this document. Proposers who fail to submit "Appendix Two" may be deemed non-responsive and their proposal may be rejected.

1. What percent of the base proposal for this project will be supplied by certified Women/ Minority and/or Small Businesses? _____%

Using the matrix below list the name of each certified women, minority or small business to be utilized on this project, the type of work to be performed and the proposed dollar amount of their contract. Using the categories below, please document the following information:

| Date of Contact | Name of Women Minority or Small Business | Certificati on (WBE/MB E) | Person Contacte d | Reason for Contact | Type of Work or Supplies | Contract/ Purchase Amount Result |
|-----------------|--|---------------------------|-------------------|--------------------|--------------------------|----------------------------------|
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This page may be photo copied for additional documentation of efforts.

2. List the steps the Proposer will take to insure that certified Women, Minority and Small Businesses will be given an opportunity to participate on this project.

3. During the performance of this project, will the Proposer join with the City to support training programs or other efforts designed to help certified Women, Minority and Small Businesses? _____ Yes _____ No

Appendix Three

Guide to Insurance Requirements in Contracts

Workers Compensation and Employers Liability Insurance: Minnesota has a law that requires employers to assume obligation for employee injuries and some occupational illnesses, as defined, which “arise out of and in the course of employment.” Such obligation applies regardless of fault. Coverage A for claims under the State statute is unlimited. Medical, disability and lost wages are paid to the employee and benefits to survivors. Coverage B – Employers Liability – provides coverage for liability actions against the employer related to workers. The coverage pays legal defense costs as well as damages the insured is legally obligated to pay because of bodily injury or disease including death to an individual. The negligent act must occur to an individual ruled not to be an employee but injured while working for the employer or for other litigation brought by another party (i.e., wife) because an employee was injured or died. There is a separate limit for each accident, Disease policy limit and disease each employee. The obligation can be satisfied by an insurance policy, or by approved self-insurance.

Commercial General Liability Insurance: A standard insurance policy issued to business organizations to protect them against liability claims for bodily injury and property damages arising out of premises, operations, products and completed operations; and advertising and personal injury liability. The Commercial Liability policy was introduced in 1986 and replaced the Comprehensive General Liability policy. The General Aggregate is the maximum limit of insurance payable during any given annual policy period for all losses other than those arising from the products and completed operations hazard. An Occurrence or accident included continuous or repeated exposure to substantially the same general harmful conditions. Products-completed operations applies to liability arising out of the insured’s products or business operations conducted away from the insured’s premises once those operations have been completed or abandoned. Personal and advertising injury refers to a category of insurable offenses that produces harm other than bodily injury including: false arrest, detention or imprisonment; malicious prosecution; wrongful eviction; slander; libel; and invasion of privacy. Advertising injury is combined with personal injury insures the following offenses in connection with the insured’s advertising of its goods or services: libel, slander, invasion of privacy, copyright infringement, and misappropriation of advertising ideas. Fire legal liability is coverage for the insured’s liability for fire damage to premises rented to the insured. This coverage could also be provided in a Property insurance policy. Medical expense coverage reimburses others, without regard to the insured’s liability, for medical or funeral expenses incurred by such persons as the result of bodily injury or deaths sustained by accident under the conditions specified in the policy.

Commercial Auto Liability Insurance/Business Auto Policy: This insurance includes auto liability and auto physical damage coverage. It applies to automobile accidents that occur while the contractor is conducting work on the contract. Even if the contractor has personal automobile insurance, this insurance may not cover accidents that occur while the contractor is working. The coverage may be given for cars owned by the contractor, cars hired (leased or rented) by the contractor, employee-owned cars being used for work, or may cover all cars used by the contractor. The coverage levels that are required by the City standard contracts are minimal standards. In many cases the Contractor’s Personal Auto Policy may cover their “business” usage of their vehicle. If this is a possibility then the Contractor should get a letter from his/her insurance agent indicating that such coverage is part of the policy.

Professional Liability This insurance coverage is designed to protect traditional professionals (e.g., physicians) and quasi professionals (e.g., real estate brokers) against liability incurred as a result of errors and omissions in performing professional services. Although there are a few exceptions, most professional liability policies cover economic losses suffered by third parties, as opposed to bodily injury and property damage (which is typically covered under Commercial General Liability policies.) The vast majority of policies are written with claims-made coverage triggers. This applies to problems that occur due to a professional making errors or omissions that are inappropriate given the profession. For example, doctors have malpractice insurance that is a form of professional liability insurance. The professionals that should typically require Professional Liability insurance are: architects, engineers, medical professionals, computer professionals, as well as other professionals who have a high risk of causing serious problems if their work is not done as per the standards of their profession. The coverage levels that are required by the City standard contracts are minimal standards. The decision as to use Professional Liability insurance is up to the department contract manager.

Builders Risk

This insurance coverage applies to problems during building construction. There is special language for this that must be used in the contract. The decision to use Builders Risk insurance is made by the department contract manager. Contact the Risk Management Office for the appropriate language.

Insurance Waiver Process

It is possible to receive a waiver for certain kinds of insurance if the City Risk Management Office considers it appropriate. To request a waiver, send an E-mail or memo to Risk Management with:

1. The name of the contractor
2. The scope of services for the contract
3. If there are any contractor employees (this does not include owners)
4. Which specific insurance coverage(s) you want waived
5. Any further clarifying information as appropriate

Risk Management will review the materials and perhaps contact you for further information. If they approve the waiver, they will send you a Risk Management Waiver Form with X's indicated for the areas they are waiving. The language next to the X is the language to be typed into the contract itself under the appropriate paragraph for that type of insurance. When you submit your contract to Contract Management, you will need to attach a copy of the Risk Management Waiver Form.

The following are possible situations where a waiver may be appropriate:

1. An individual may receive a Workers Compensation insurance waiver, as there are no employees that need Workers Compensation insurance.
2. A partnership may receive a Workers Compensation insurance waiver, as there are no employees that need Workers Compensation insurance.
3. An individual may receive an Auto Liability insurance waiver, as the individual will not be using any vehicle while working on the contract.
4. An individual may receive an Auto Liability insurance waiver if the individual's personal auto insurance coverage sufficiently addresses the risk. You will need to get either a) a copy of the personal insurance deck page that identifies specific coverage levels and the name(s) of the insured or b) a letter from the insurance agent that states the contractor has an endorsement for auto insurance coverage when the auto is used for business purposes. A copy of the insurance card is not acceptable.
5. A professional firm that would typically require Professional Liability insurance may receive a waiver if the work being done for the specific contract is not "professional" work. An example would be an engineering firm that is contracted with to count car usage on a specific bridge.

Insurance Certificates

Even though contracts state that insurance coverage is required, it is important to verify the insurance through the certificate. The department contract manager must obtain certificates or waivers for all insurance cited in the contract at the time of contract onset and throughout the contract period. The department contract manager and the Contract Management Office in Purchasing must retain copies of these certificates or waivers. The City Insurance Certificate review protocol is as follows:

Check the form itself

- Must be a City-approved insurance form. An Assigned Risk Program certificate from the State of Minnesota is acceptable for Workers Compensation. In addition, a Risk Management-approved letter from a governmental body disclosing their Self-insured status is also acceptable.
- A representative from the insurance company must be provided or signed on the signature line of the form. A copy of the form is acceptable.
- The form should include a box for indicating if the City of Minneapolis has been added as an additional insured for the General Liability and Auto Liability coverage. This box must be checked.
- The contractor name on the certificate must match the contractor name on the contract.

Check the Coverage

- The dates of coverage for all required insurance must at least cover the contract starting date up through the current date (if back-dated) or the contract starting date (if future-dated)
- Read any special notes added to the certificate to determine if problematic or if they limit the scope of the insurance.
- All coverage levels should meet or exceed contract requirements, with these exceptions:

General Liability

- A blank General Aggregate is acceptable if Each Occurrence is filled in with an amount that meets or exceeds the requirement.
- A blank Each Occurrence is acceptable if General Aggregate is filled in with an amount that meets or exceeds the requirement.
- If Products-Completed Operations Aggregate, Personal and Advertising Injury or Fire Damage is blank or below the requirement, Risk Management will need to send an E-mail to approve the variation from the requirement. Contact Risk Management if this occurs.
- If Medical is blank or below the requirement, this is acceptable.
- Business Owners Liability can substitute for Commercial General Liability if the General Aggregate level meets the requirement.

Auto

- Bodily Injury Each Person or Bodily Injury per accident with coverage as per requirement is acceptable.

Workers Compensation

- If the State of Minnesota Assigned Risk form is being used, “no coverage for Part B” is acceptable